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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/752,654  
Filed: December 27, 2000  
Inventor(s):  
Justin Chickles  
Raghavendra Gurur

Title: GRAPHICAL USER  
INTERFACE INCLUDING  
PALETTE WINDOWS  
WITH AN IMPROVED  
NAVIGATION  
INTERFACE

§ Examiner: Vu, Kieu D.  
§ Group/Art Unit: 2173  
§ Atty. Dkt. No: 5150-43100  
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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, Alexandria, VA 22313-1450, on the date indicated below.

Jeffrey C. Hood

  
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10/4/2005  
Date

**REPLY BRIEF**

**Mail Stop Appeal Brief - Patents**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir/Madam:

Further to the Examiner's Answer of August 11, 2005, Appellant presents this Apply Brief, and respectfully requests that this Reply Brief be considered by the Board of Patent Appeals and Interferences.

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## **REMARKS**

Claim 73-76, 78-120, 122-144, and 146-158 are pending. Claims 73-76, 78-120, 122-144, and 146-158 are rejected and are the subject of this Reply Brief.

### **Claim Groupings**

In item 7 of the Examiner's Answer, the Examiner asserts that claims 73-76, 78-80, 82-84, 86-87, 95-101, 103, 104-113, 117-120, 122, 124, 128-134, 135-140, 143-144, 146, 149, 151, and 153-158; and claims 81, 85, 88-94, 102, 114-116, 123, 125-127, 141-142, 147-148, 150, and 152 respectively stand or fall together because the Appeal Brief did not include an explicit statement "that this grouping of claims does not stand or fall together and reasons in support thereof", citing 37 CFR 1.192(c)(7). Appellant respectfully submits that the cited rule has been changed, and directs the Examiner to the Federal Register/Vol. 69, No. 155/Thursday, August 12, 2004, Rules and Regulations, which on page 49962, col. 3, item (9) recites in part:

(9) The grouping of claims requirement set forth in former Rule 192(c)(7) is removed. The general purpose served by former Rule 192(c)(7) is addressed in section 41.37(c)(1)(viii).

Appellant notes that section 41.37(c)(1), which describes the contents of a proper Appeal Brief, nowhere requires such explicit grouping of claims in a statement. Rather, such claim grouping is addressed in the arguments, where claims that are argued separately are considered to stand separately, based on their respective arguments.

### **Arguments**

Regarding the Examiner's arguments directed to the section 103 rejection of claims 73-76, 78-80, 82-84, 86-87, 95-101, 103, 104-113, 117-120, 122, 124, 128-134, 135-140, 143-144, 146, 149, 151, and 153-158 over Applicant's Admitted Prior Art (hereinafter, "AAPA") and Filepp et al. (U.S. Patent No. 5,758,072, hereinafter "Filepp"):

Claims 73, 95, 117, 128, 143, and 149 and dependents

The Examiner argues that Appellant has only provided arguments against the cited references separately, instead of considering the references in combination. Appellant respectfully disagrees, and submits that the arguments were intended to establish that Filepp is non-analogous to the present invention as claimed, and to further establish that Filepp fails to remedy the admitted deficiencies of AAPA.

The Examiner admits that AAPA does not teach that a first palette window is closed subsequent to receiving user input selecting a navigation item (such as a “back”, “up”, or “next”), but asserts that combining AAPA with Filepp remedies this deficiency, citing Figure 3b of Filepp. More specifically, the Examiner states that Filepp was cited for teaching that “a first palette window is closed subsequent to said receiving the user input selecting navigation item” [sic], and so remedies AAPA’s admitted deficiencies. Appellant respectfully disagrees.

As discussed at length in the Appeal Brief on p.10, line 4 – p.11, line 8, Filepp does not disclose palette windows, nor navigating between palette windows. In fact, the only mention Filepp makes of palettes at all is in reference to field attributes in an application page. More specifically, Filepp fails to disclose “a first palette window is closed subsequent to said receiving the user input selecting the navigation item”. Rather, as argued in detail in the Appeal Brief, Filepp discloses navigating (back and forward) between application pages in a distributed, partitioned application, where the navigation buttons allow the user to switch which application page, i.e., which portion of the application, is displayed on the monitor, e.g., to switch to a previous or next application page of the partitioned application. Nowhere does Filepp teach or suggest palette windows that include user selectable palette items for inclusion of desired functionality in a program, nor navigating among such palettes via navigation items included in the palette windows.

As to the Examiner’s assertion that Appellant’s arguments were improperly directed to Filepp and AAPA separately, Appellant disagrees. Appellant notes that the limitation (admittedly missing in AAPA) of “closing the first palette window in response to said receiving user input selecting the navigation item” clearly implies the limitation “receiving user input selecting a navigation item displayed on the first palette window”,

which is not taught by Filepp (nor AAPA). In other words, Appellant submits that the Examiner has ignored aspects of the limitation for which Filepp was allegedly cited, and has incorrectly continued to argue that Filepp discloses navigating among palette windows (“closing the first *palette window* in response to said receiving user input selecting the navigation item”), although this deficiency was clearly described in the Appeal Brief.

More generally, Appellant respectfully submits that the Examiner has not provided arguments rebutting the deficiencies of Filepp (in combination with AAPA) that were presented in the Appeal Brief on p.10, line 4 – p.12, line 18. For example, rather than rebutting Appellant’s arguments that Filepp teaches *away* from Appellant’s invention as claimed, the Examiner simply stated that “this is not quite the case since Appellant’s admitted prior art, Appellant’s invention, and Filepp are in the same field of graphical user interface and window navigation”. Appellant respectfully submits that whether the invention and cited references are in the same field or not is not the basis for determining if a reference “teaches away” from the invention. Appellant respectfully reminds the Examiner that if a proposed modification would render the prior art feature unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. In *re Gordon*, 733 F.2d 900 (Fed. Cir. 1984). As was discussed on p.11, lines 9-20 of the Appeal Brief, changing Filepp’s application pages to palette windows would render Filepp’s applications inoperable, for at least the reason that palettes cannot function as Filepp’s executable applications. Appellant notes that the Examiner did not address this issue.

Similarly, the Examiner failed to provide arguments rebutting Appellant’s submission that the Examiner failed to provide a proper motivation to combine (Appeal Brief, p.11, line 17-p.12, line 9), specifically, that the Examiner’s suggested motivation of “being to easily navigate through the series of windows” is simply citing an improved result without any initial suggestion from the prior art, which is improper. Rather, in the Examiner’s Answer, the Examiner simply repeated the previous (incorrect) assertion of the motivation, and appeared to ignore Appellant’s reasoned arguments.

Claims 82, 83, and 84

The Examiner argues that Appellant's argument that Filepp fails to teach or suggest using menus to navigate among the pages of Filepp's application "attacks the reference individually since the admitted prior art teaches using menu [sic] to navigate among the palette windows (each palette window 100A, 100B is a menu since it contains selectable items such as 108 A or 108 B...).

Note that in the Appeal Brief, Appellant's arguments regarding these claims begins: "Appellant respectfully submits that **neither AAPA nor Filepp** teaches or suggests the features of claims 82, 83, and 84." Appellant respectfully disagrees with the Examiner's reasoning, and submits that a "menu" is not the same as a "palette", as is well understood by those of skill in the art of graphical user interfaces, and as clearly indicated in both the present claims and specification.

Appellant further notes that menus are neither discussed nor even mentioned in AAPA, which is why the particular argument cited by the Examiner was addressed to Filepp, since Filepp does at least discuss menus, although not as recited in these claims. However, in addition to failing to disclose navigation through palettes as claimed, Filepp further fails to teach or suggest using menus to navigate among the pages of Filepp's application, as discussed in the Appeal Brief on p.14, lines 20-27.

Other than the Examiner's improper attempt to redefine palettes as menus, the Examiner has not provided a substantial rebuttal to Appellant's arguments regarding these claims.

Claims 104, 105, 106, 111, 112, 122, 136, 137, 138, 151, 153, 154, 155, 156, and 157

The Examiner argues that, contrary to the present application's use of the terms, the AAPA palette window selection item 108A is a navigation item, asserting that since display of child palette window 100B is invoked via element 108A, this element is a navigation item. Appellant respectfully disagrees. As is well understood by those skilled in the art of graphical user interfaces, a navigation item facilitates *relative* movement (e.g., up, down, back, forward) between items, e.g., between palettes or windows, while a palette window selection item, such as palette window selection item 108A, invokes display of a specific palette window, such as the display of child palette window 100B. Applicant respectfully submits that the Examiner has improperly attempted to redefine

Appellant's terms to bolster an unsupported argument. Appellant notes that as claimed and described in the specification, and as discussed at length in the Appeal Brief on p.15, lines 21-32, the terms, "palette window selection item" and "navigation item" are not used interchangeably, are not used to refer to the same element, and are clearly not equivalent. Thus, Appellant submits that palette window selection item 108A is specifically *not* a navigation item, and that AAPA fails to disclose "navigation items".

The Examiner apparently objects to Appellant's use of "back" as an example of a relationship indicated by a navigation item in the Appeal Brief, stating that claims 104, 105, 106, 111, 112, 136, 137, 138, 151, 153, 154, 155, 156, and 157 do not recite the "back" limitation. Appellant respectfully submits that this example was provided to help the Examiner understand the meaning of "navigation item" as used in the present application, in response to the Examiner's assertion in the Final Office Action that AAPA teaches navigation items (citing element 108A of prior art Figures 4A, 4B, and 4C), and was not directed to the particular limitations of these claims. Thus, the Examiner's objection is not germane to the patentability of these claims.

The Examiner argues that Appellant's arguments regarding Filepp's CLOSE\_WINDOW>window-id] function are vague "since the Appellant does not provide any factual evidence to support his argument rather than simply states [sic] that the cited portion 'in no way' discloses the limitation". Appellant respectfully disagrees, and notes that an analysis of this issue was provided in the Appeal Brief on p.16, lines 4-23, where Appellant particularly pointed out that Filepp's CLOSE\_WINDOW>window-id] function is a "verb" programming element in a text-based procedural language, specifically, a TRINTEX Basic Object Language (TBOL) function callable in a text-based language to open a new window upon closing a currently open window, citing col. 11, lines 33-37 of Filepp. Appellant submits that Appellant's statement that the cited portion does not teach the features and limitations of claim 104, specifically, "closing the first palette window in response to said receiving the first user input selecting the first palette window selection item", is accurate and fully justified by the presented analysis, for at least the reason that this text-based programming callable function is not described in Filepp as operating "in response to said receiving the first user input selecting the first

palette window selection item”, especially since Filepp does not disclose palette window selection items at all.

Regarding the Examiner’s suggested motivation to combine, the Examiner argues that “the motivation is specific in programming environment [sic] since Filepp teaches...that a user selection of a close command can trigger the system to perform both tasks of closing a current window and opening another window” and that “this mechanism saves a separate step of opening a window, and therefore the mechanism enables efficient conditional execution”.

Appellant respectfully maintains that the Examiner’s suggested motivation is improper, as explained in detail in the Appeal Brief on p.17, lines 10-22. As with many of the Examiner’s arguments provided in the Examiner’s Reply, it appears that the Examiner has not really addressed Appellants arguments as presented in the Appeal Brief. As indicated therein, the Examiner has simply cited an improved result of the alleged combination/modification as motivation, which is improper. Moreover, as also argued in the Appeal Brief, although Filepp discloses a single text-based procedural program call to close a current window and open a new window, there is no suggestion, other than Appellant’s disclosure, to employ this scheme to promote the introduction of new and alternative products, specifically, to close a current palette window upon opening a new, e.g., child, window *via selection of a palette window selection item in the current palette window*. As noted in the Appeal Brief and above, Filepp never mentions or even hints at palette window selection items.

Thus, Appellant submits that the arguments presented in the Appeal Brief regarding the Examiner’s suggested motivation to combine are valid. Additionally, as also argued in the Appeal Brief and above, even in combination, the cited references fail to provide all the claimed features and limitations of the present invention as represented in claim 104.

#### Claims 107, 109, 139, 140, and 158

The Examiner argues that “AAPA fully teaches” the feature “receiving user input selecting a navigation item of the second palette window, wherein the navigation item is

operable when selected to close a currently displayed palette window and display a previously displayed palette window”. Appellant respectfully disagrees.

As explained above in detail, AAPA does not disclose “navigation items” at all, and more specifically fails to describe a navigation item that is operable *when selected* to close a currently displayed palette window and display a previously displayed palette window.

Moreover, with respect to the Examiner’s reasoning that in cases where the currently displayed palette window partially covers or overlaps a previously displayed palette window, closing the current window causes the display of the previously displayed palette window, Appellant respectfully submits that such a contrived construction relies not on the functionality of the alleged (but missing) navigation item, but rather on a circumstantial placement of displayed palette windows. There are several problems with this reasoning.

For example, Appellant notes that in the Examiner’s scenario, even if the previously displayed palette window is partially covered by the current palette window, the previously displayed palette window would still be “displayed” while the current palette window is displayed, albeit only partially. Appellant directs the Examiner’s attention to p. 2, line 27 – p. 3, line 3, of the present specification:

Upon selecting palette window selection item 108A of palette window 100A, for example, by clicking or double-clicking the item, a second palette window 100B is displayed as illustrated in Figure 4B. In this example, palette window 100A may be described as a parent of palette window 100B, and palette window 100B as a child of palette window 100A. Palette window 100B may partially cover or overlap palette window 100A, *which remains displayed. (emphasis added)*

Clearly, the Examiner’s interpretation of AAPA is incorrect. Moreover, Appellant respectfully submits that even a cursory reading of the present application would make clear that displaying a previously displayed palette window in response to closing a currently displayed palette window is distinct from simply continuing to display the previously displayed palette window. In other words, Appellant submits that one of ordinary skill in the art would understand that the act of displaying a previously displayed



window in response to closing a currently displayed window inherently implies that the “previously displayed palette window” was first displayed (i.e., previously), then *not* displayed (e.g., while the currently displayed palette window is open), then displayed again in response to the selection of the navigation item that closes the currently displayed palette window. Additionally, as argued above, the AAPA does not disclose navigation items, but rather, refers to palette window selection items (e.g., 108A), and thus, AAPA’s palette windows are not closed via selection of a navigation item.

Thus, Appellant submits that the Examiner’s argument is incorrect.

The Examiner also argues that Appellant’s argument that Filepp does not teach all the features and limitations of claim 107 (including those of base claim 104) is improperly directed only to Filepp, and asserts that AAPA teaches all the limitations of claim 107. Appellant notes that Appellant’s arguments in the Appeal Brief regarding claim 107 recites: “Appellant respectfully submits that neither AAPA nor Filepp teaches or suggests the features of claims 107, 109, 139, and 140”, and that both Filepp and AAPA are discussed regarding claim 107 in the Appeal Brief on p.19, line 5 – p.20, line 3, although in subsequent paragraphs.

However, Appellant concurs that the arguments may be more specifically addressed to the combination of Filepp and AAPA, and so Appellant respectfully submits that neither AAPA nor Filepp teaches or suggests the features of claims 107, 109, 139, and 140. For example, claim 107, in addition to the features and limitations of claim 104, includes the limitations:

... wherein each of the palette windows in the hierarchy of palette windows comprises one or more navigation items, the method further comprising:

receiving user input selecting a navigation item of the second palette window, wherein the navigation item is operable when selected to close a currently displayed palette window and display a previously displayed palette window;

closing the second palette window in response to said user input selecting the navigation item; and

displaying the first palette window on the display in response to said user input selecting the navigation item.

Claim 158 includes similar limitations as claim 107. Claim 139 includes similar limitations as claim 107, but specifies the navigation item as a “back navigation item operable when selected to display a most recently previously displayed palette window in a backward direction and to close a currently displayed palette window”. Claim 109 includes similar limitations as claim 107, but rather than displaying the first palette window on the display in response to said user input selecting the navigation item, claim 109 includes the limitation, “displaying a third palette window on the display in response to said user input selecting the navigation item”. Claim 140 includes similar limitations as claim 109, but specifies the navigation item as a “forward navigation item operable when selected to display a most recently previously displayed palette window in a forward direction and to close a currently displayed palette window”.

Appellant respectfully submits that a *prima facie* case of obviousness has not been established to reject claims 107, 109, 139, 140, and 158. For example, in addition to the arguments provided above with respect to independent claim 104, Appellant submits that Filepp and AAPA fail to teach or suggest “receiving user input selecting a navigation item of the second palette window, wherein the navigation item is operable when selected to close a currently displayed palette window and display a previously displayed palette window”. Nor do these references teach or suggest “closing the second palette window in response to said user input selecting the navigation item”.

For example, contrary to the Examiner’s assertions, and as argued in detail above with reference to claims 104, 105, 106, 111, 112, 136, 137, 138, 151, 153, 154, 155, 156, and 157, AAPA does not disclose navigation items, and more specifically fails to disclose “receiving user input selecting a navigation item of the second palette window, wherein the navigation item is operable when selected to close a currently displayed palette window and display a previously displayed palette window”, and “closing the second palette window in response to said user input selecting the navigation item”, but rather, describes palette window selection items (e.g., 108A). Appellant also submits that Filepp fails to disclose using navigation items with palette windows, and specifically fails to disclose “receiving user input selecting a navigation item of the second palette window, wherein the navigation item is operable when selected to close a currently displayed palette window and display a previously displayed palette window”, and “closing the

second palette window in response to said user input selecting the navigation item”. In fact, Filepp fails to even mention palette window selection items at all.

Nor do Filepp and AAPA teach or suggest the additional limitations of “displaying the first palette window on the display in response to said user input selecting the navigation item” (claim 107), nor “displaying a third palette window on the display in response to said user input selecting the navigation item” (claim 109)”. Nor do Filepp and AAPA teach or suggest these limitations where the navigation items are respectively specified as back and forward navigation items in the palette windows.

In rejecting claim 107, the Examiner asserts that AAPA teaches “when window 100B is closed, window 100A would be opened as part of the hierarchy window system”. However, as argued in detail above, the AAPA clearly states otherwise (see Specification p. 2, line 27 – p. 3, line 3). Appellant submits that the Examiner has mischaracterized AAPA in this regard, and that the Examiner’s argument is incorrect.

Thus, Appellant submits that even in combination, AAPA and Filepp fail to teach or suggest these limitations, and respectfully reminds the Examiner that, per *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985), it is insufficient to select from the prior art the separate components of the inventor's combination, using the blueprint supplied by the inventor. Appellant respectfully submits that the Examiner has selected particular portions of AAPA and Filepp in an attempt to construct Appellant’s claimed invention using the present claims as a blueprint, which is improper.

#### Claim 113

The Examiner argues that the “up” navigation item recited in claim 113 is equivalent to Filepp’s “back” navigation item “since Filepp’s back navigation item are used to move back the previous window (i.e., the parent window) [sic]”. Appellant disagrees, noting that an “up” navigation item does not make sense in the context of a linear or sequential structure such as Filepp’s linear sequence of application pages, as opposed to the inherent tree structure of a palette hierarchy. Appellant notes that detailed arguments explaining this distinction were presented in the Appeal Brief in p.20, line 25- p.21, line 3, but were apparently not considered by the Examiner, and submits that the

Examiner has again improperly attempted to redefine Appellant's terms to bolster an unsupported argument, and submits that one of ordinary skill in the art would understand that "up" and "back" navigation items are not equivalent.

#### Claim 134

The Examiner's incorrect assertion of the equivalence between an "up" navigation item and a "back" navigation item is discussed above with reference to claim 113, and more specifically in the Appeal Brief in p.20, line 25-p.21, line 31, where, for example, it was noted that Filepp's partitioned application consists of a linear series of application pages, and is thus *not* organized in a logical tree structure, and that Filepp's system for navigating between application pages has no need for an "up" navigation item, which, as is well known, operates to move one step up in a hierarchical or tree structure. As noted therein and above, in Filepp's system, an "up" navigation item would be nonsensical and inoperable. Rather, Filepp's linear sequence of application pages uses "back" and "next" navigation features to move back and forth along the linear sequence of application pages, and makes no mention of an "up" navigation item. Appellant further submits that the notions of "parent" and "child" are not applicable to Filepp's application pages, and in fact are never mentioned in Filepp, and so the Examiner's characterization of Filepp's "previous" application page as a "parent" page is incorrect and improper.

Additionally, regarding the Examiner's assertion that "a linear series can form a logical tree structure", Appellant respectfully submits that while a logical tree structure can form a linear series, the converse is not true, and further notes that Filepp nowhere refers to the linear series of application pages as a hierarchy, e.g., with parent and child application pages.

Thus, for at least the reasons provided above and in the Appeal Brief, Appellant respectfully submits that AAPA and Filepp, taken singly or in combination, neither teach nor suggest all the features and limitations of claims 73-76, 78-80, 82-84, 86-87, 95-101, 103, 104-113, 117-120, 122, 124, 128-134, 135-140, 143-144, 146, 149, 151, and 153-158, and so for at least the reasons provided above, claims 73-76, 78-80, 82-84, 86-87, 95-101, 103, 104-113, 117-120, 122, 124, 128-134, 135-140, 143-144, 146, 149, 151, and

153-158 are patentably distinct and non-obvious over the cited art, and are thus allowable.

Removal of the section 103 rejection of claims 73-76, 78-80, 82-84, 86-87, 95-101, 103, 104-113, 117-120, 122, 124, 128-134, 135-140, 143-144, 146, 149, 151, and 153-158 is respectfully requested.

Regarding the Examiner's arguments directed to the section 103 rejection of claims 81, 85, 88-94, 102, 108, 110, 114-116, 123, 125-127, 141, 142, 147, 148, 150, and 152 over AAPA, Filepp, and Gavron et al. (*How to Use Microsoft Windows NT 4 Workstation*, hereinafter "Gavron"):

Claim 81, 102, 123, and 147

The Examiner argues that Appellant's arguments were improperly directed to Gavron individually. Appellant disagrees, noting that the particular arguments presented in the Appeal Brief regarding Gavron with respect to claim 81 were provided in response to the Examiner's admission that AAPA and Filepp "fail to teach an 'up' icon for the purpose of enabling user [sic] to easily navigate through a hierarchy of windows", and subsequent assertion that Gavron remedies the admitted deficiencies of AAPA and Filepp. For example, Appellant submits that for Gavron to provide a motivation to combine with AAPA and Filepp, some indication must be provided in Gavron regarding the desirability or benefit of combining the features of these references with those of Gavron, and thus, one must necessarily analyze Gavron as to such indications, as presented in the Appeal Brief. Thus, Appellant submits that the Examiner's argument is incorrect and improper. Appellant further notes that the Examiner has not substantially rebutted Appellant's arguments regarding the Examiner's improper motivation to combine.

The Examiner's argument that Filepp's linear series of partitioned application pages is a logical tree structure, i.e., a hierarchy, has been addressed above in detail, e.g., with reference to claims 113 and 134.

### Claim 85

The Examiner's arguments regarding Appellant's arguments directed individually to Gavron have been addressed above with reference to claims 81, 102, 123, and 147. Similarly, the Examiner's arguments regarding AAPA's teaching (or lack of) using menus to navigate among palette windows have been addressed above with reference to claims 82, 83, and 84. Additionally, the Examiner's arguments regarding Filepp's teaching (or lack of) an "up" navigation item have been addressed above with reference to claims 113 and 134.

### Claims 88, 89, 90, 91, 92, 93, 94, and 148

The Examiner argues that Gavron's windows are palette items because they contain "a plurality of items that may be selected", and because Appellant's Specification states that a palette window contains "a plurality of items that may be selected". Appellant respectfully submits that the fact that two things share a characteristic does not mean that they are equivalent, and further submits that the notion of a palette is well understood by those of ordinary skill in the art of graphical user interfaces to be more than simply a window that contains a plurality of items that can be selected. For example, Appellant notes that a simple page of text in a word processing application is a window wherein one may select words or sentences, and submits that no one of skill in the art would consider this a palette. Similarly, Gavron's directory system is not properly characterized as a palette. Appellant respectfully submits that the Examiner has repeatedly ignored the actual claim limitations that clarify the meanings of such terms. For example, claim 73, which is the base claim of claim 88, specifically recites in part:

wherein one or more of the palette windows in the hierarchy comprise palette items that are selectable by a user, wherein each of the palette items is selectable by the user to include functionality in a program being created or modified, wherein one or more of the palette windows comprise a palette window selection item, wherein the palette window selection item is selectable by the user to display a second palette window from the hierarchy of palette windows, and wherein the first palette window includes one or more navigation items displayed on the first palette window for navigating among the hierarchy of palette windows...

Appellant submits that Gavron's windows in no way provide this functionality, and thus, that the Examiner's arguments are incorrect.

Regarding the Examiner's arguments against Appellant's arguments regarding motivation to combine, Appellant submits that the fact that "AAPA, Filepp, and Gavron are in the same field of displaying and navigation in windows" is not germane to the issue of whether these references provide a motivation to combine, and notes (again) that the Examiner's suggested motivation "to provide convenient searching feature [sic]" is simply citing an improved result, absent any motivation found in the prior art, and is thus improper.

Further arguments regarding the lack of a proper motivation to combine was presented in the Appeal Brief in p.27, lines 8-30.

#### Claims 114 – 116, 142, and 152

The Examiner's reasoning in asserting equivalence between Appellant's palettes and Gavron's windows has been addressed above with reference to claims 88, 89, 90, 91, 92, 93, 94, and 148.

The Examiner's reasoning in asserting that AAPA teaches "closing the currently displayed palette window in response to said user input selecting the search item" and "displaying a search window in response to said user input selecting the search item" has been addressed above with reference to claims 107, 109, 139, 140, and 158.

The Examiner's reasoning regarding Appellant's arguments regarding motivation to combine were addressed above in reference to claims 88, 89, 90, 91, 92, 93, 94, and 148, as well as in the Appeal Brief in p.30, line 17 – p. 31, line 3.

#### Claims 125 – 127

The Examiners arguments regarding the asserted equivalence between Appellant's palettes and Gavron's windows have been addressed above with reference to claims 88, 89, 90, 91, 92, 93, 94, and 148.

The Examiner's reasoning in asserting that AAPA teaches "closing the currently displayed palette window in response to said user input selecting the search item" and

“displaying a search window in response to said user input selecting the search item” has been addressed above with reference to claims 107, 109, 139, 140, and 158.

The Examiner’s reasoning regarding Appellant’s arguments regarding motivation to combine were addressed above in reference to claims 88, 89, 90, 91, 92, 93, 94, and 148, as well as in the Appeal Brief in p.32, line 20 – p. 33, line 6.

#### Claim 141

The Examiner’s arguments regarding Filepp’s teaching (or lack of) an “up” navigation item have been addressed above with reference to claims 113 and 134.

#### Claim 150

Regarding the Examiner’s arguments regarding Appellant’s arguments being directed individually to Gavron, Appellant notes that the arguments were provided in response to the Examiners statement that that AAPA and Filepp “fail to teach an ‘up’ icon for the purpose of enabling user [sic] to easily navigate through a hierarchy of windows”, and subsequent assertion that Gavron remedies the admitted deficiencies of AAPA and Filepp, similar to the discussion above with reference to claims 81, 102, 123, and 147, as well as in the Appeal Brief in p.34, line 22 – p.35, line 6.

Regarding the Examiner’s assertion that “the combination as presented above is proper and would result in Appellant’s invention since teachings of AAPA, Pilepp, and Gavron are in the same field of Appellant’s endeavor, i.e., displaying windows and navigating in a hierarchical structure using selected items displayed in windows. [sic]”, Appellant respectfully submits that, as noted above, being in the same field is not sufficient for establishing a proper motivation to combine, nor for producing Appellant’s invention as claimed. Appellant respectfully submits that the arguments provided in the Appeal Brief in p. 35, lines 7-34 are valid and overcome the Examiner’s arguments.

Thus, for at least the reasons provided above and in the Appeal Brief, Appellant respectfully submits that AAPA, Filepp, and Gavron, taken singly or in combination, neither teach nor suggest all the features and limitations of claims 81, 85, 88-94, 102, 108, 110, 114-116, 123, 125-127, 141, 142, 147, 148, 150, and 152, and so for at least the



reasons provided above, claims 81, 85, 88-94, 102, 108, 110, 114-116, 123, 125-127, 141, 142, 147, 148, 150, and 152 are patentably distinct and non-obvious over the cited art, and are thus allowable.

Removal of the section 103 rejection of claims 81, 85, 88-94, 102, 108, 110, 114-116, 123, 125-127, 141, 142, 147, 148, 150, and 152 is respectfully requested.

### VIII. CONCLUSION

For the foregoing reasons, it is submitted that the Examiner's rejection of claims 73-76, 78-120, 122-144, and 146-158 was erroneous, and reversal of Examiner's decision is respectfully requested.

The Commissioner is authorized to charge the appeal brief fee of \$500.00 and any other fees that may be due to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5150-43100/JCH. This Reply Brief is submitted with a return receipt postcard.

Respectfully submitted,



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